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THE STATE OF UTAH
Office of State Engineer
Salt Lake City, Utah

March 2, 1959

INTEROFFICE MEMORANDUM

RE: PROPOSED DISPOSITION OF GOOSEBERRY PROJECT AND SCOFIELD RESERVOIR FILINGS.

- RE: 1. Sanpete County Water Users Applications 9593 (approved) 12839 (unapproved), Unapproved Changes a-1599 and a-1600.
2. U. S. Bureau of Reclamation Unapproved Applications 9594, 14025, 14026, 14683, 14475, 14476 and 14477.
3. Price River Water Users Perfected Applications 1035 (Cert. 2046), 8989-a (Cert. 2451) and Uncertificated 13334.

This memorandum is prepared on the filings covering the Gooseberry Project and Scofield Reservoir. The purpose is to outline a plan for early disposition of these filings.

Historically, the Gooseberry Project was part of a larger program to develop and control waters for use in the Price River and Sanpete County areas. For the Sanpete area there was planned the building of a reservoir in the Price River drainage, a tunnel, appropriate feeder canals, and a distribution canal to carry water to Sanpete County irrigated lands. Two sites, the Mammoth and Gooseberry Narrows, have been alternately proposed for the reservoir. These facilities have not been completed. An associated feature of this original plan was the building of Scofield Reservoir to store water for use in the Price River area. This reservoir has already been constructed. Since the Bureau of Reclamation report of 1946, the Mammoth Reservoir site has been considered economically not feasible. At present, the Gooseberry Narrows site area is felt to be the most feasible.

Back of this proposed and completed construction lies a history of attempts and agreements, including the so-called Tri-Partite Agreement which allowed the building of Scofield Reservoir with the understanding that the Gooseberry Project would, in effect, supercede certain of the water rights held for Scofield storage. Because of the connection with the uncertain Gooseberry Project, the proposed water rights for Scofield Reservoir have never been processed to their ultimate conclusion.

The situation which the State Engineer's Office is now faced with is that there are a multitude of unapproved applications on file for diversion of water to cover the incompleted Gooseberry Project while at the same time water is being stored, diverted and used from the Scofield Reservoir without proper approved application coverage. The superfluous applications should be eliminated and adequate coverage for Scofield should be provided.

One disposition would be that: (1) the filings on Mammoth be rejected as infeasible; (2) that the unapproved Sanpete County Water Users' application 12839 for feeder canals - if considered feasible - be amended, readvertised and

approved; and (3) that the Bureau's Application 9594 be segregated to cover the Gooseberry site, and the remainder of this application reduced and approved to cover Scofield Reservoir storage above the presently certificated rights for 30,000 ac. ft. Likely the approaching litigation on the Sanpete County Water Users' Application 9593 now covering the Gooseberry Reservoir site could modify this picture considerably. However, if the request for extension of time on application 9593, which is the only approved application on the Gooseberry project, is not thrown out entirely by the court, these actions seem most logical. Indeed, the segregation of 9594 could provide an alternative proposal should 9593 be discredited through lack of diligence alone.

Because of the State Engineer's schedule of action on pending applications set up for Sanpete and Carbon Counties, it is not likely that final disposition of these applications shall be made until after litigation is completed on 9593. However, immediate attention to the ultimate goal is advisable.

In detail, these are the actions proposed along with the reasons for taking them:

1. The State Engineer's office should reject as infeasible the Applications Nos. 14025, 14026, 14683, 14475, 14476 and 14477 of the Bureau of Reclamation filings and Change Applications Nos. a-1599 and a-1600 of the Sanpete Water Users' Association. These applications cover the Mammoth Reservoir site, tunnel, feeder canals, and High-line distribution canal as proposed in 1940 by the Bureau of Reclamation.

The Bureau's 1946 report indicates the infeasibility of this site and a 1953 report (letter by E. O. Larson to the Utah Water and Power Board, received October 30, 1957) confirms the even greater infeasibility of this site under present-day-cost considerations. None of these applications have been advertised although some effort has been made to bring 14475 and 14476 up to advertising standards but without success and without regard to present plans or the other applications on file to cover this project. To hold any of these applications in anticipation of amending and using them on the more feasible Gooseberry Narrows site is unnecessary since the earlier priority applications of Sanpete Water Users' Association covers this site (9593 for the Reservoir and 12839 for feeder canals) as would the proposed segregation and change on the unapproved application 9594, detailed below.

Application 14683 is part of this Mammoth Reservoir site project and should be rejected even though it attempts to cover the present unapproved storage and use of 43,580 acre-feet of water in the Scofield Reservoir. This unadvertised application, filed March 10, 1942, was a forerunner of the Tri-Partite Agreement of October 11, 1943. This application attempted, by means of an "appropriation by exchange", to store water in Scofield while allowing the use of water on the irrigated lands of Sanpete County. This control is now established in the Tri-Partite Agreement. Objections to this application are legion. The making of proof to show waters stored in Scofield for use on Sanpete lands might well be an impossibility. The application does not show the actual quantity to be covered by legal right which is 43,580 acre-feet total rather than the 43,000 acre-feet as on the face of the application. The use of Cabin Hollow Creek and Mammoth site mentioned in this application is not now contemplated in the Gooseberry project. The application is of late priority and has not been advertised. The Tri-Partite Agreement is seemingly a more satisfactory coverage of project needs while this application and appropriation by exchange is most questionable.

The proposed action on 9594, discussed below, is anticipated to cover to the greater satisfaction of all concerned, the Scofield storage problem which this application attempted to do.

2. If the feeder canals from San Rafael drainage to Gooseberry are feasible, the Sanpete County Water Users' should re-examine unapproved application 12839 in the light of the Gooseberry Narrows site project. There is seemingly a need for an addition to this application of a feeder canal from Brooks Creek to the reservoir site (below the point of water delivery from North Fork of Huntington Creek). Amendment may also be necessary in the proposed feeder canals of Boulder Creek and Huntington Creek areas to conform with any feasible route possible and to avoid damaging the irrigated lands of Flat Canyon area. Possible readvertising will be necessary on this, although the priority can remain the same if no enlargements in quantity of water are shown. Approval or rejection can follow the decision of pending litigation on 9593.

3. The Bureau of Reclamation might examine and segregate Application 9594 with a view to covering the Scofield Reservoir and providing an alternate application to cover Gooseberry Reservoir. This Application 9594 is for 90,000 acre-feet storage in Scofield for use on 55,000 acres of land in the Price River area and segregation should amply cover both Scofield and Gooseberry reservoirs. Its priority is of September 12, 1924, the day after the priority date on 9593 - Sanpete Water Users application now pending litigation. It has been advertised, protested by a single individual (now deceased) and remains unapproved. It is in the name of the Bureau.

The action that might be taken on 9594 is this:

a. Segregate out the quantity of water necessary for the Gooseberry Project and prepare a change application to cover the project as it likely will be completed.

b. Correct the remaining Application 9594 to agree with actual proposed uses in the Price River area and in subordination to Gooseberry - as per the Tri-Partite Agreement. That is:

(1). An examination of this application should be made to see if corrections are necessary for proper description of nature and place of use in Price River area and points of canal redirection.

(2). A red-inked statement should be made in the explanatory section of both 9594 and its Gooseberry segregation as to the intended water storage subordination of Scofield to Gooseberry according to the Tri-Partite Agreement. Indeed, by manipulation of priority dates in this 9594, and its segregation, something of this intended subordination can be attained. That is, it is noted that 9594 has an earlier priority date than the largest existing right in Scofield. By segregating out the Gooseberry project first, retaining its original priority of September 12, 1924, then dropping the priority of Scofield water in the remainder of 9594 to a later date, the priority dates in this office would resemble something of the intended water storage subordination of Scofield to Gooseberry. However, the requested statement in the explanatory section of both 9594 and its segregated portion should spell this subordination out clearly, and as to whether this subordination refers to just the 43,580 ac. ft. carry-over storage or to the 73,580 ac. ft. total capacity of Scofield.

(3). While the Bureau may wish to indicate in the explanatory of Application 9594 that the 8,000 acre-feet dead storage of Scofield is for fish

culture, it seems more consistent with reality if it is indicated in red ink of the explanatory something to the effect that "the dead storage capacity is being held for the Utah State Fish and Game Department for use in fish culture." Might it be intended that the Utah Fish and Game Department would acquire a separate right to the use of the dead storage? Some discussion on this point should be had before any action is taken.

(4). At the time of approval of 9594, and after proper segregation and change to cover Gooseberry, the remaining unsegregated quantity of water can be reduced to the 43,580 acre-feet storage in Scofield not now covered by proper rights.

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